

ASSEMBLY BILL

No. 335

Introduced by Assembly Member Fuentes

February 18, 2009

An act to add Section 924 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 335, as introduced, Fuentes. Employment contracts.

Existing law prohibits certain employment contract provisions as against public policy and declares provisions in certain construction contracts between a contractor and subcontractor for work in this state that purport to require dispute resolution between the parties to be commenced or determined outside of the state to be void and unenforceable.

This bill would make void and unenforceable as against public policy any provision in an employment contract that requires an employee, as a condition of obtaining or continuing employment, to use a forum other than California, or to agree to a choice of law other than California law, to resolve any dispute with an employer regarding employment-related issues that arise in California.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) It is the public policy of the State of California to ensure
- 3 that California employees have the full benefit of the provisions
- 4 of the California Labor Code and other provisions of California

1 law that relate to employment and that employees should not be
2 deprived of the protection of California law by contract provisions
3 that require employees or job applicants, as a condition of
4 employment, to submit to the laws of other states for claims that
5 arise from employment, or the securing of employment, in
6 California.

7 (b) All employees should have the right to access the California
8 courts to seek redress for employment claims and employees should
9 not be required to resolve these claims in foreign jurisdictions.

10 (c) Any choice of law, choice of forum, or choice of venue
11 provision in a job application, employment agreement, employment
12 handbook, or other statement of an employer's policies applicable
13 to its employees, is against the public policy of this state if the
14 provision would have either of the following effects:

15 (1) Requiring the employee or job applicant to resolve claims
16 outside of California that arose from employment, or the securing
17 of employment, in California.

18 (2) Depriving the employee or job applicant of the protection
19 of California law for claims arising from employment, or the
20 securing of employment, in California.

21 SEC. 2. Section 924 is added to the Labor Code, to read:

22 924. (a) An employer shall not require an employee or job
23 applicant, as a condition of employment, to waive the application
24 of California law to any dispute relating to employment, or the
25 securing of employment, in California.

26 (b) An employer shall not require an employee or job applicant,
27 as a condition of employment, to resolve outside of California any
28 dispute regarding employment, or the securing of employment, in
29 California.

30 (c) Any choice of law, choice of forum, or choice of venue
31 provision in a job application, employment agreement, employment
32 handbook, or other statement of an employer's policies applicable
33 to its employees, is unconscionable, violative of the public policy
34 of this state, and void if the provision would have the effect of
35 either of the following:

36 (1) Requiring the employee or job applicant, as a condition of
37 employment, to resolve claims outside of California that arose
38 from employment, or the securing of employment, in California.

1 (2) Depriving the employee or job applicant of the protection
2 of California law for claims arising from employment, or the
3 securing of employment, in California.

4 (d) Nothing in this section affects the right of an employee to
5 voluntarily agree to a choice of law or forum selection provision
6 that is not required as a condition of employment and that is the
7 subject of independent consideration.

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